

GENERAL PROVISIONS

Chapter 1

GENERAL PROVISIONS

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[HISTORY: Article I, adopted by the Township Committee of the Township of Union 9-2-71; Article II, adopted by the Board of Health of the Township of Union 9-2-71; Article III, adopted by the Township Committee of the Township of Union 6-2-75 as Ord. No. 1975-14. Amendments noted where applicable.]

A R T I C L E I
Adoption of Code by Township Committee
[Adopted 9-2-71]

§ 1-1. Adoption of Code.

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Township of Union of a general and permanent nature, adopted by the Township Committee of the Township of Union as revised, codified and consolidated into titles, chapters and sections by General Code Publishers Corp., and consisting of Chapters 1 through 74, together with an Appendix and Index, are hereby approved, adopted, ordained and enacted as the "Code of the Township of Union, County of Ocean, New Jersey."

(Cont'd on page 103)

§ 1-2. Code supersedes prior ordinances.

This ordinance shall supersede all other general and permanent ordinances passed by the Township Committee of the Township of Union prior to the enactment of this Code, except such ordinances as are expressly saved from repeal or continued in force and effect as shall hereafter be set forth by reference.

§ 1-3. When effective.

All provisions of the Code of the Township of Union, County of Ocean, New Jersey, shall be in full force and effect on and after the effective date of this ordinance.

§ 1-4. Repeal of ordinances not contained in Code.

All ordinances of a general and permanent nature, adopted by the Township Committee of the Township of Union and in force on the date of the adoption of this ordinance, and not contained in the Code of the Township of Union, County of Ocean, New Jersey, are hereby repealed as of the effective date of this adopting ordinance, except as hereinafter provided.

§ 1-5. Ordinances saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-4 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal.

- A. Any right or liability established, accrued or incurred under any legislative provision of the Township of Union prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Township of Union or any penalty, punishment or forfeiture which may result therefrom.

- C. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision of the Township of Union.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Township of Union.
- E. Any ordinance of the Township of Union providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Township of Union, or any portion thereof.
- F. Any ordinance or resolution of the Township of Union appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Township of Union or other instruments or evidence of the Township of Union's indebtedness.
- G. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- H. The levy or imposition of taxes, assessments or charges.
 - 1. The dedication of property or approval of preliminary or final subdivision plats.
- J. Any ordinance of the Township of Union regulating vehicles and traffic.
- K. Ordinances adopted by the Board of Health.
- L. Any ordinance of the Township of Union adopted subsequent to December 21, 1970.

§ 1-6. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the Township of Union for adoption and revision as part of the Code of the Township of Union, County of Ocean, New Jersey, pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor

changes were made for one (1) or more of said ordinances. It is the intention of the Township Committee of the Township of Union that all such changes be adopted as part of the Code of the Township of Union, County of Ocean, New Jersey, as if the ordinances so changed had been previously formally amended to read as such.

§ 1-7. Copy of Code on file.

A copy of the Code of the Township of Union, County of Ocean, New Jersey, in loose-leaf form has been filed in the office of the Township Clerk of the Township of Union and shall remain there for the use and examination of the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Township of Union by impressing thereon the seal of the Township of Union, as provided by law, and such certified copy shall remain on file in the office of the Clerk of the Township of Union to be made available to persons desiring to examine the same during all times while the said Code is in effect.

§ 1-8. Amendments to Code.

Any and all additions, amendments or supplements to the Code of the Township of Union, County of Ocean, New Jersey, when passed and adopted in such form as to indicate the intention of the Township Committee to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Township of Union, County of Ocean, New Jersey" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code of the Township of Union, County of Ocean, New Jersey shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing the said Code, as amendments and supplements thereto.

§ 1-9. Code book to be kept up-to-date.

It shall be the duty of the Township Clerk or someone authorized and directed by the Township Clerk to keep up-to-date the certified copy of the book containing the Code of the Township

of Union, County of Ocean, New Jersey, required to be filed in the office of the Township Clerk for the use of the public. All changes in said Code and all ordinances adopted by the Township Committee subsequent to the effective date of this codification which the Township of Union, shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-10. Sale of Code book; supplements provided.

Copies of the Code book containing the Code of the Township of Union, County of Ocean, New Jersey, may be purchased from the Clerk of the Township of Union upon the payment of a fee to be set by resolution of the Township Committee, who may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-11. Publication; filing.

The Clerk of the Township of Union, pursuant to law, shall cause to be published in the manner required, a copy of this adopting ordinance in a newspaper of general circulation in the Township of Union. Sufficient copies of the Code of the Township of Union, County of Ocean, New Jersey, shall be maintained in the office of the Township Clerk for inspection by the public at all times during regular office hours. The enactment and application of this adopting ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-12. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

§ 1-13. Severability of ordinance provisions.

Each section of this ordinance is an independent section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-14. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Township of Union to be misrepresented thereby. Anyone violating this section of this ordinance shall be subject, upon conviction, to a fine of not more than five hundred dollars (\$500.) or imprisonment for not more than ninety (90) days, or both, in the discretion of the Judge imposing the same.

§ 1-15. Penalties for violation of this ordinance.

Any person, firm or corporation convicted of violating any provision of this ordinance shall be subject to a fine not exceeding one thousand two hundred fifty dollars (\$1,250.) or imprisonment as provided by law for not more than ninety (90) days, or both, in the discretion of the Judge imposing the same.

§ 1-16. Effective date of this ordinance.

This ordinance shall take effect immediately after final approval and publication according to law.

§ 1-17. Deletions, amendments and additions to the Code; penalties. [Amended 9-17-73; 2-2-81 by Ord. No. 1981-5]

- A. All deletions, amendments and additions to the ordinances of the Township of Barnegat have been made to the Code of the Township of Barnegat as pertains to the particular chapter being deleted, amended or added to, and is contained in that chapter.¹
- B. Penalties. Provisions concerning penalties are incorporated in the chapters to which they pertain. Penalties are found in the following chapters:
- (1) Chapter 28, Alcoholic Beverages, § 28-8.
 - (2) Chapter 33, Bathing Beach,, § 33-18.
 - (3) Chapter 36, Brush, Weeds, Obnoxious Growth, § 36-4.
 - (4) Chapter 38, Buildings, Unfit, § 38-7.
 - (5) Chapter 38A, Cats, § 38A-13.
 - (6) Chapter 40, Consumer Protection, § 40-7.
 - (7) Chapter 41, Curfew, § 41-7.
 - (8) Chapter 43, Dock, Municipal, § 43-9.
 - (9) Chapter 44, Dogs, § 44-24.
 - (10) Chapter 46, Fire Prevention, § 46-8.
 - (11) Chapter 46A, Fire Lanes, § 46A-5.
 - (12) Chapter 47, Fraudulent Checks, § 47-3.
 - (13) Chapter 48, Garbage, Rubbish, Refuse Matter, §§ 48-5 and 48-17.

¹Editor's Note: Prior to the amendment by Ord. No. 1981-5, this § 1-17 enumerated and described various deletions, amendments and additions to various ordinances of the township. The sections so enumerated were as follows: § 4-1, 14-1, 28-2C, 28-8, 33-18, 37-1, 37-4, 38-10, 41-7, 43-9, 44-4, 46-8, 47-3, 48-5, 50-16, 54-7, 60-5, 62-2, 63-1F, 63.3, 65-4 and 69-25.

- (14) Chapter 52, Hawkers, Peddlers, Canvassers and Solicitors, §§ 52-9 and 52-24.
- (15) Chapter 54, Junk and Junk Dealers, § 54-7.
- (16) Chapters 55, 55A, 55B, Development Review, § 55-222.
- (17) Chapter 55C, Littering, § 55C-20.

- (18) Chapter 56, Mobile Home Parks, § 56-12.
- (19) Chapter 57, Motor Vehicle Junk Dealers, § 57-14.
- (20) Chapter 59, Nuisances, § 59-4.
- (21) Chapter 60, Peace and Good Order, § 60-5.
- (22) Chapter 62, Pollution, § 62-2.
- (23) Chapter 62A, Property Damage by Minors, § 62A-3.
- (24) Chapter 63, Property Maintenance, § 63-3.
- (25) Chapter 64, Rent Leveling, § 64-12.
- (26) Chapter 65, Snow and Ice Removal, § 65-4.
- (27) Chapter 65A, Soil Removal, Excavation and Mining, § 65A-29.
- (28) Chapter 66, Streets and Sidewalks, §§ 66-15 and 66-24.
- (29) Chapter 68, Taxicabs and Taxi Stands, § 68-23.
- (30) Chapter 69, Trailers and Camp Cars, § 69-25.
- (31) Chapter 71, Vehicles and Traffic, §§ 71-11, 71-16, 71-22 and 71-26.
- (32) Chapter 72, Vehicles, Unlicensed, § 72-7.
- (33) Chapter 73, Vending Machines, § 73-5.

A R T I C L E I I

Adoption of **Code by Board of Health** [Adopted 9-2-711]

§ 1-18. Adoption of Code.

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Township of Union of a general and permanent nature, adopted by the Board of Health of the Township of Union as revised, codified and consolidated into titles, chapters and sections by General Code Publishers Corp., and consisting of Chapters 75 through 80, are hereby approved, adopted, ordained and enacted as the "Code of the Township of Union, County of Ocean, New Jersey."

§ 1-19. Code supersedes prior ordinances.

This ordinance shall supersede all other general and permanent ordinances passed by the Board of Health of the Township of Union prior to the enactment of this Code, except such ordinances as are expressly saved from repeal or continued in force and effect, as shall hereafter be set forth by reference.

§ 1-20. When effective,

All provisions of the Code of the Township of Union, County of Ocean, New Jersey, shall be in full force and effect on and after the effective date of this ordinance.

§ 1-21. Repeal of ordinances not contained in Code.

All ordinances of a general and permanent nature, adopted by the Board of Health of the Township of Union and in force on the date of the adoption of this ordinance, and not contained in the Code of the Township of Union, County of Ocean, New Jersey, are hereby repealed as of the effective date of this Adopting Ordinance, except as hereinafter provided.

§ 1-22. Exception to general repeal.

The repeal provided for in § 1-21 of this ordinance shall not affect:

- A. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance.
- B. Any prosecution, action, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance.
- C. Any provision of an ordinance or resolution of the Board of Health of the Township of Union creating employments, positions or offices and fixing duties therefor which are not provided in the Code hereby adopted and which are not in conflict or inconsistent therewith.
- D. Any ordinances of the Township of Union adopted subsequent to November 2, 1950.

§ 1-23. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the Township of Union for adoption and revision as part of the Code of the Township of Union, County of Ocean, New Jersey, pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made for one (1) or more of said ordinances. It is the intention of the Board of Health of the Township of Union that all such changes be adopted as part of the Code of the Township of Union, County of Ocean, New Jersey, as if the ordinances so changed had been previously formally amended to read as such.

§ 1-24. Copy of Code on file.

A copy of the Code of the Township of Union, County of Ocean, New Jersey, in loose-leaf form has been filed in the office of the Township Clerk of the Township of Union and shall remain there for the use and examination of the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Township of Union by impressing thereon the seal of the Township of Union, as provided by law, and such certified copy shall remain on file in the office of the Clerk of the Township of Union to be made available to persons desiring to examine the same during all times while the said Code is in effect.

§ 1-25. Amendments to Code.

Any and all additions, amendments or supplements to the Code of the Township of Union, County of Ocean, New Jersey, when passed and adopted in such form as to indicate the intention of the Board of Health to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Township of Union, County of Ocean, New Jersey" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code of the Township of Union, County of Ocean, New Jersey shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing the said Code, as amendments and supplements thereto.

§ 1-26. Code book to be kept up-to-date.

It shall be the duty of the Township Clerk, or someone authorized and directed by the Township Clerk, to keep up-to-date the certified copy of the book containing the Code of the Township of Union, County of Ocean, New Jersey, required to be filed in the office of the Township Clerk for the use of the public. All changes in said Code and all ordinances adopted by the Township Committee subsequent to the effective date of this codification which the Township of Union shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-27. Sale of Code book; supplements provided.

Copies of the Code book containing the Code of the Township of Union, County of Ocean, New Jersey, may be purchased from the Clerk of the Township of Union upon the payment of a fee to be set by resolution of the Township Committee, who may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-28. Publication; filing.

The Clerk of the Township of Union, pursuant to law, shall cause to be published in the manner required, a copy of this adopting ordinance in a newspaper of general circulation in the Township of Union. Sufficient copies of the Code of the Township of Union, County of Ocean, New Jersey, shall be maintained in the office of the Township Clerk for inspection by the public at all times during regular office hours. The enactment and application of this adopting ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

1-29. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section. and the holding of any

section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

§ 1-30. Severability of ordinance provisions.

Each section of this ordinance is an independent section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-31. Penalties for violations of this ordinance.

Any person, firm or corporation convicted of violating any provision of this ordinance shall be subject to a fine of not less than five dollars (\$5.) nor more than five hundred dollars (\$500.) for each violation, as provided by law.

§ 1-32. Effective date of this ordinance.

This ordinance shall take effect immediately after final approval and publication according to law.

A R T I C L E I I I
Appeals to the Governing Body
[Adopted 6-2-75 as Ord. No. 1975-14j]

§ 1-33. Filing of appeal.

Whenever any provision of the Code of the Township of Union, Ocean County, State of New Jersey, or the statutes of New Jersey shall provide that the governing body of the Township of Union is the appropriate tribunal to hear and decide any appeal from any other board, body, commission or official of the Township of Union, notice of such appeal shall be filed, by the aggrieved party, with the Township Clerk of Union Township and with the board, body, commission or official appealed from within ten (10) days of the adverse decision appealed from, unless some further time

period is provided by law. The notice of appeal shall be in writing and served by certified mail, return receipt requested, postmarked within the time for which appeals may be filed. The United States Post Office postmark shall be conclusive of the date of the filing of the notice of appeal.

§ 1-34. Records and transcript.

All appeals shall be heard on the record made before the board, body, commission or official appealed from. Where a stenographic record was taken before the board, body, commission or official appealed from, the notice of appeal shall be accompanied by proof that a copy of that record has been ordered. The appellant shall supply, at his sole cost, six (6) copies of the transcript of the proceedings being appealed from. The six (6) copies shall be filed with the Clerk of Union Township, who shall forthwith distribute one (1) copy to each member of the governing body, one (1) copy to the Municipal Engineer and one (1) copy to the Township Solicitor.

§ 1-35. Notice to adverse party.

The Township Clerk shall further forthwith upon filing of the transcripts give notice to any adverse party appearing in the transcripts in opposition to the position taken by the appellant, said notice advising that an appeal has been taken and that a copy of the transcript of the proceedings is available for inspection in the Township Clerk's office.

§ 1-36. Filing of memorandum.

Within thirty (30) days of the filing of the transcript, a written memorandum or brief shall be filed by the appellant detailing the basis for the appeal and setting forth the law and the facts whereby it is urged that the board, body; commission or official appealed from erred in the decision appealed from. Six (6) copies of the memorandum shall be filed with the Township Clerk, who shall forthwith distribute the copies in the same manner as the distribution of the transcript. Copies of the memorandum shall

also be furnished without cost to any adverse party requesting the same of the appellant, such request to be in writing with carbon copies to the Township Clerk. Copies shall be furnished by the appellant without cost.

§ 1-37. Responding memorandum.

Within thirty (30) days of the receipt of the memorandum, any adverse party may file responding memorandum reciting the law and the facts upon which such adverse party shall rely in attempting to sustain the ruling of the board, body, commission or official appealed from.

§ 1-38. Notice of public hearing.

Within ten (10) days from the date of the filing of the transcript, the governing body shall fix a time for oral argument of the appeal. Such time shall be not less than sixty (60) nor more than ninety (90) days from the date of the filing of the transcript. The date, time and place of the public hearing shall be furnished to the appellant, who shall, not more than twenty (20) nor less than ten (10) days prior to the date fixed for the public hearing and oral argument, cause notice of the same to be published in the official newspaper of Union Township and cause notice to be served by certified mail, return receipt requested, of the time, place and date of such hearing on all persons who were notified by the appellant, or in the event the appeal is from the affirmative and favorable action of some board, body, commission or official, upon all persons notified by the original applicant.

§ 1-39. Presentation at public hearing.

At the time of the public hearing, all persons may appear in person, or by attorney, and be heard. The presentation of the appellant shall be made first and the appellant shall be permitted forty-five (45) minutes within which time law and fact will be argued. Any party who appeared in an adverse capacity in the hearing below shall likewise be permitted forty-five (45) minutes

within which to reply. Any party who did not appear in an adversary position below may be heard and permitted such time as the governing body may deem reasonable.

§ 1-40. Decision of governing body.

At the close of the public hearing, the governing body shall take the matter under advisement and by formal resolution adopted at the next regular township meeting take action affirming or denying the decision appealed from, which resolution shall set forth in detail the reasons for the actions of the governing body.

§ 1-41. Assessment of fee.

The governing body may, in its sound discretion, assess a reasonable fee against the appellant for the costs incurred as a result of the appeal, such costs to include attorney's fees, engineering fees, expert fees or other expenses actually incurred by the municipality.

§ 1-42. Alternatives open to governing body.

The governing body shall have the authority to grant the relief requested in the appeal, affirm the action appealed from, remand the matter for the preparation of a stenographic record of the proceedings, or such other action as it may consider reasonable under all of the circumstances.

§ 1-43. Limits of authority.

Nothing contained herein shall extend to the governing body of Union Township the right to hear and decide any appeal except as may be permitted by law, and where appeal in the first instance is fixed by law to be to the Superior Court this ordinance shall not change nor modify such requirement and shall not confer jurisdiction on the Union Township Committee.